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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,035	11/02/2000	Haruo Oba	112857-265	6839
29175	7590	09/08/2005	EXAMINER	
BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			MICHALSKI, JUSTIN I	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/705,035		OBA ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Justin Michalski		2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 July 2005 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding Claim 1, the specification, while providing support (as discussed on page 12, line 16 through page 14 of the specification) for a portable audio listening apparatus comprising: means for generating an audio modulated signal modulated in a band in which a signal is transferred by using a human body of a single user; a first

electrode (Fig. 7, 201) for outputting the generated audio modulated signal; a second electrode (Fig. 8, electrode 39, corresponding to electrode 21 shown in Fig. 1) for receiving the audio modulated signal transferred through the first electrode and then through the body of the single user, with a transmission path of the audio modulated signal not being capacitively coupled to ground; means for demodulating the audio modulated signal received by the second electrode (Fig. 8, demodulator 72), and downloading said demodulated signal into said audio listening apparatus for storage (Fig. 8, playback section 30); and means for generating audible sound according to the demodulated signal stored in said listening apparatus (Fig. 7, headphone 10; Fig 3, speakers 56 and 57).

The specification does not reasonably provide support for wherein said second electrode (Fig. 8, electrode 39, corresponding to electrode 21 shown in Fig. 1) is attached to the audible sound generating means (speakers 56 and 57) which receives signals from the playback apparatus (20).

The specification discloses page 13, lines 20 through 22, "In Fig. 8, an electrode 39 (corresponding to the electrode 21 shown in Fig. 1) is used for receiving a signal sent from the audio-signal transmission apparatus 200." The specification further discloses on page 14, lines 8-9 that "the musical data is sent to an audio-signal playback section 30 and recorded" (i.e. downloaded). There is no disclosure as to the second electrode (21) being attached to the audible sound generation means (speakers 56 and 57 of headphones 10) which receives signals from the playback apparatus (20).

To summarize the above, the invention (Figs. 7 and 8) contains three electrodes (201, electrode with playback apparatus 20, and electrode with headphones 10) while the claimed invention contains only two electrodes. As claimed, the first electrode must correspond to (Fig. 7, electrode 201) and the second electrode must correspond to (Fig. 8, electrode 39). The only electrode that is attached to the audible sound generating means (headphones 10, speakers 56 and 57) which receives signals from the playback apparatus (20) is earpad 13. Even assuming that the earpad 13 is the second electrode receiving signals from a playback apparatus 20, there is no disclosure of downloading and storing the demodulated signal received by earpads 13.

Claim 2 contains the limitation, "wherein said second electrode is attached to the audible sound generating means which receives signals from the playback apparatus" and is rejected for reasons stated above apropos of claim 1.

Claim 10 contains the limitation, "wherein the second electrode is attached to the audible sound generating means which receives signals from the playback apparatus" and is rejected for reasons stated above apropos of claim 1.

Claims 3-8, 11, and 12 are dependent on claims 1, 2, or 10 and therefore rejected for the reasons as stated above.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 2, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "playback apparatus" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "playback apparatus" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitations "the second electrode" in line 7 and "the playback apparatus" in line 9. There is insufficient antecedent basis for these limitations in the claim.

### ***Conclusion***


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (571)272-7524. The examiner can normally be reached on M-F 7-3:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JIM

  
September 5, 2005

  
**VIVIAN CHIN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**  
9/06/05